

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

RICHARD CADENASSO,
Plaintiff,

v.

METROPOLITAN LIFE INSURANCE
COMPANY, et al.,
Defendants.

Case No. 13-cv-05491-JST

**ORDER DENYING MOTION FOR
CLASS CERTIFICATION WITHOUT
PREJUDICE; ADVANCING CASE
MANAGEMENT CONFERENCE AND
JOINT CASE MANAGEMENT
DEADLINE**

Re: ECF No. 8

Before the Court is Plaintiff's Motion for Class Certification ("Motion"). ECF No. 8. Plaintiff has not yet re-noticed the motion for hearing on the undersigned's calendar. See Order Reassigning Case, ECF No. 17. However, pursuant to Federal Rule of Civil Procedure 78(b) and Civil Local Rule 7-1(b), the Court finds that the parties' briefs have thoroughly addressed the issues, rendering the matter suitable for disposition without oral argument.

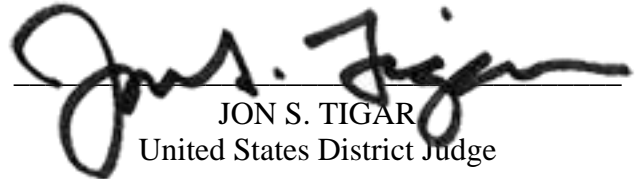
Plaintiff filed this motion for class certification the day after he filed his complaint, before Defendants had been served in this matter. Plaintiff explains that he filed the motion as a "placeholder" to "prevent Defendants from making an offer of judgment on an individual basis, and relying on certain case law suggesting that making such an offer of judgment prior to the making of a class certification motion renders the entire litigation moot." Motion 2:15-18. But as Plaintiff acknowledges in his Reply, under Ninth Circuit authority "an unaccepted Rule 68 offer of judgment—for the full amount of the named plaintiff's individual claim and made before the named plaintiff files a motion for class certification—does not moot a class action." Pitts v. Terrible Herbst, Inc., 653 F.3d 1081, 1091-92 (9th Cir. 2011). Accordingly, this motion for class

1 certification is significantly premature and is therefore DENIED WITHOUT PREJUDICE.

2 The Court hereby ADVANCES the case management conference to February 12, 2014 at
3 2:00 P.M., in Courtroom 9, 19th Floor, San Francisco, California. A joint case management
4 statement is due on January 29, 2014.

5 **IT IS SO ORDERED.**

6 Dated: January 21, 2014

7 
8 JON S. TIGAR
United States District Judge

United States District Court
Northern District of California